

## REMARKS

### *Status of Application*

**Claims 1-18, 20-25, and 27-29** are all the claims pending in the application.

**Claim 1** has been amended to cure minor informalities. **Claims 2-13, 15, 18, and 21** have been amended for clarity and to cure minor informalities. No new subject matter has been entered.

### *The Office Action*

**Claims 1-18, 20-22, 25, 28, and 29** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama (U.S. Patent No. 6,600,735) in view of Gous (U.S. Patent Application Publication No. 2002/0194316).

**Claims 23 and 24** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama in view of Gous, and further in view of Maher (U.S. Patent No. 5,381,403).

**Claim 27** is rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama in view of Gous, and further in view of Muirhead (U.S. Patent Application Publication No. 2003/0123446).

### *Preliminary Matters*

Applicants thank the Examiner for accepting the replacement drawing filed May 21, 2008.

### *Claim Rejections - 35 U.S.C. § 112*

**Claims 12, 13, 15, and 18** stand rejected under 35 U.S.C. § 112, second paragraph.

Claims 9, 12, 13, 15, and 18 have been amended to alleviate Examiner's rejections. It is respectfully requested this ground of rejection of **claims 12, 13, 15, and 18** be withdrawn.

### *Claim Rejections - 35 U.S.C. § 103*

**Claims 1-18, 20-22, 25, 28, and 29** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama (US Patent No. 6,600,735) in view of Gous (US Patent Publication No. 2002/0194316). Applicants traverse at least for three following reasons:

***1. Gous does not teach or suggest constitution of a specific measurement configuration***

The Examiner relies on paragraph 41 of Gous to teach monitoring means for ordering constitution of a specific measurement configuration in each measuring appliance as a function of at least its measuring process and overall measurement specifications. (*See* Office Action, page 4, last paragraph - page 5, 1<sup>st</sup> paragraph).

In the cited portion, **Gous** describes a changeover sequence creation module 30 which constructs a collection of routing/admission data structures 36 and calculates a bandwidth/allocation matrix for each routing/admission data structure. (Paragraph 41).

Further, each routing/admission structure defines connections for each node and a maximum bandwidth level attributed to each connection at each stage of changeover. (Paragraph 40, Fig. 3). The bandwidth/allocation matrix represents the total bandwidth allocated to each node. (Paragraph 42).

The Examiner contends that the bandwidth allocation matrix is the specific measurement to enforce the measurement configuration for each routing/admission data structure that is utilized in the changeover generation process. (*See* Office Action, page 22, second paragraph).

To the extent the constitution of a specific measurement configuration is described, Gous teaches constitution of a desired connection configuration in the network by changing the configuration information maintained at the nodes. The configuration in Gous relates to configuring connections between the nodes. The bandwidth matrix of Gous is to allocate the maximum bandwidth usage of a node based on the available operational bandwidth.

To the contrary, the configuration of claim 1 relates to configuring the specific measurement based on a specific measuring process of a corresponding node and overall measurement specifications.

Accordingly, the bandwidth matrix of Gous is not the same as or an equivalent of a specific measurement configuration. Additionally, Gous does not teach or suggest creating its bandwidth matrix based on the measuring process associated with the node. Nor it is a function of the measuring process and overall measurement specifications.

Accordingly, Gous does not teach or suggest “the constitution of a specific measurement configuration in each measuring appliance as a function of at least a corresponding measuring

process of a respective measuring appliance and overall measurement specifications,” as claimed.

In the rebuttal, the Examiner further cites to paragraph 44, in which Gous describes maintaining the table to indicate for each node an operational bandwidth capacity and a reserved bandwidth capacity. (*See* Office Action, page 22, 2<sup>nd</sup> paragraph). The relevance of this portion to rebut Applicants arguments is not understood. Claim 1 does not discuss allocating the bandwidth to the network elements. Nor did Applicants previously discussed this matter.

***2. Gous does not teach or suggest delivering local measurements***

The Examiner relies on paragraph 35 of Gous to teach calculation means to deliver data representative of the parameter values of overall end-to-end data streams from local measurements delivered by the configured measuring appliances. (*See* Office Action, page 5, 2<sup>nd</sup> paragraph).

In this cited portion, Gous teaches the changeover signaling module 32 which converts the changeover sequence into a list of instructions that are communicated to the nodes. The changeover signaling module 32 receives acknowledgments from the nodes that the relevant nodes have successfully executed the received instructions. (Paragraph 35).

Therefore, in this portion, Gous describes delivering the instructions to the nodes and receiving acknowledgments of successful changeovers from the nodes. Gous does not teach or suggest delivering the local measurements by the measuring appliances to the calculation means, as claimed. The acknowledgement message is not the same as or an equivalent of the local measurements. Additionally, Gous does not teach or suggest determining, by the calculation means, the data representative of the parameter values of overall end-to-end data streams, from the local measurements.

**3. The Examiner multiple counts the bandwidth allocation matrix 56 of Gous**

**Claim 8** recites: “at least one domain includes a measuring appliance implementing a measuring process based on a measurement model.”

Element 56 is cited to support the rejection. (*See* Office Action, page 8, 4<sup>th</sup> paragraph).

**Claim 9** recites: “a main calculation module arranged to determine said first data from local measurements delivered by said configured measuring appliances, said local measurement specifications and at least one value aggregation model.”

The bandwidth allocation matrix is cited to support the rejection (“aggregation model”). (See Office Action, page 9, 1st paragraph).

**Claim 11** recites “an additional value aggregation model for additional values.”

The bandwidth allocation matrix is cited to support the rejection (“aggregation model for additional values”). (See Office Action, page 10, 1st paragraph).

But, element 56 of Gous is the bandwidth allocation matrix, on which the Examiner relies to support the rejection of claim 1 (e.g., “the specific measurement”). (See paragraph 42 and Fig. 4).

However, it is well settled that the Examiner may not count the same element of the reference multiple times to support the rejection.

Accordingly, the rejection is improper at least for this reason.

**In conclusion**, because neither Iwama, nor Gous, taken singularly or in combination, teaches or suggests at least “monitoring means for ordering constitution of a specific measurement configuration in each measuring appliance as a function of at least a corresponding measuring process of a respective measuring appliance and overall measurement specifications, and calculation means for determining first data representative of parameter values of overall end-to-end data streams from local measurements delivered by the said configured measuring appliances,” **claim 1 and dependent claims 2-18, 20-22, 25, and 28** distinguish patentably and unobviously over Iwama and Gous.

**Claim 29** recites features similar to, although not necessarily coextensive with, the features argued above with respect to claim 1. Therefore, arguments presented with respect to claim 1 are respectfully submitted to apply with equal force here. Therefore, it is respectfully submitted that **claim 29** distinguishes patentably and unobviously over Iwama and Gous, taken singularly or in combination.

***Dependent claims 13 and 28***

**Claim 13** recites “main calculation module is arranged to determine said first data from local measurements delivered by the said configured measuring appliances, the said local measurement specifications, at least one value aggregation model, and at least one of said measurement models.”

As previously submitted, Gous teaches receiving the acknowledgements for the successful changeover by the signaling changeover module. (Paragraph 35). Gous does not teach or suggest that the nodes deliver the local measurements to the changeover signaling module 32 (“calculation module”), as claimed.

The Examiner asserts that the bandwidth allocation matrix of Gous teaches calculated local bandwidth for individual items for connection ID 1 and 2, along with the aggregated figure. (See Office Action, page 23, 3<sup>rd</sup> paragraph).

Initially, Applicants submit that the local bandwidth is not the same as or an equivalent of the local measurements delivered by the nodes. Similarly, the summed up value of the local bandwidth for each connection is not the same as or an equivalent of the aggregation model. Additionally, the Examiner does not provide the support for the aggregation model and additional aggregation model.

Accordingly, **claim 13** distinguishes patentably and unobviously over Iwama and Gous.

**Claim 28** recites among other elements: “first, second and third measuring process differs from other measuring processes being executed and includes one of: a passive measuring process which collects information of each type of a data stream and of each packet of the data stream, an active measuring process which collects information on a periodic basis, or a measuring process based on a measurement model generated in advance for a corresponding network domain.”

The Examiner contends that Iwama’s elements 1705, 1709 and 1710 are the first, second and third measuring appliances. (Fig. 8). The Examiner further states that element 1705 enforces the bandwidth reservation, cancellation, change; element 1709 implements buffering and distribution of transmission/reception signals and controls the lines and bandwidths; and element

1710 converts speech packets. (Col. 13, lines 1-14, col. 12, lines 28-50). The Examiner also asserts that the gateways are disposed in different zones as seen in Fig. 1 of Iwama. (*See* Office Action, page 24, lines 3-5). Following the Examiner's logic, therefore, each of the elements 1705, 1709, and 1710 must be disposed in the different zone. However, as described by Iwama, all of the elements 1705, 1709, and 1710 are disposed in one respective gateway, even if in multiple gateways, to make Iwama operational. (Fig. 8).

Moreover, as described by Iwama and stated by the Examiner, each element 1705, 1709, and 1710 performs various different functions within the gateway, e.g., each element performs its own function. Generally, if the network elements performs a function, it does not warrant a conclusion that this network element runs a measuring process to collect measurement parameters. Iwama does not teach or suggest that each element 1705, 1709, and 1710 executes its own measuring process to collect the local measurements of a local data stream traversing an associated domain.

Further yet, the Examiner cites to the element 1710 as including one of the claimed "a passive measuring process which collects information of each type of a data stream and of each packet of the data stream, an active measuring process which collects information on a periodic basis, or a measuring process based on a measurement model generated in advance for a corresponding network domain."

As discussed above, Iwama describes converting speech data by element 1710. Therefore, the cited element 1710 does not perform any type of measuring process for the data collection, as claimed. Additionally, as claimed, each measuring appliance includes a different measuring process selected from those recited in claim 28. Iwama does not teach or suggest that a different one of "a passive measuring process which collects information of each type of a data stream and of each packet of the data stream, an active measuring process which collects information on a periodic basis, or a measuring process based on a measurement model generated in advance for a corresponding network domain" is performed in each measuring appliance, as claimed.

Absent support, the rejection is improper.

Accordingly, **claim 28** distinguishes patentably and unobviously over Iwama and Gous.

***Rejections of Claims 23-24 and 27***

**Claims 23 and 24** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama in view of Gous, and further in view of Maher (U.S. Patent No. 5,381,403).

**Claim 27** is rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama in view of Gous, and further in view of Muirhead (U.S. Patent Application Publication No. 2003/0123446).

**Claims 23-24 and 27** depend on claim 1. Applicants have already demonstrated that Iwama and Gous do not meet all of the features of independent claim 1. Maher and Muirhead do not compensate for the above-identified deficiencies of these references. Together, the combined teachings of these references would not have (and could not have) led the artisan of ordinary skill to have achieved the subject matter of claim 1. Since **claims 23-24 and 27** depend on claim 1, they are patentable at least by virtue of their dependency.

**CONCLUSION**

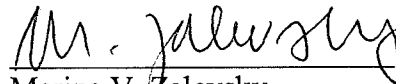
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Appln. No.: 10/825,243

Attorney Docket No.: Q80984

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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